S.B.CIVIL WRIT PETITION NO.2003/2003

(Karan Singh v. State of Rajasthan & Ors.)

Date of Order :: 15th January, 2007

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. A.K.Rajvanshy, for the petitioner.
Mr. B.L.Tiwari, Dy. Govt. Advocate.

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The Senior Deputy District Education Officer-cum-Block Elementary Education Officer, Badi Sadri by an advertisement dated NIL (Anx.1) invited applications from the eligible desirous candidates for the purpose of appointment to the post of Para Physical Teacher at Government Girls Upper Primary School, Bansi against one existing vacancy. The petitioner in pursuant thereto submitted an application but the same was not considered by keeping the post of Para Physical Teacher at the school concerned reserved for female candidate. Being aggrieved by the same this petition for writ is preferred.

It is contended by counsel for the petitioner that under the Rajasthan Panchayat Raj Rules, 1966 no reservation is prescribed for female candidates and, therefore, the rejection of the petitioner's candidature for the purpose of appointment as Para Physical Teacher at Government Girls Upper Primary School, Bansi is illegal.

In reply to the writ petition it is stated by the respondents that under the advertisement Anx.1 recruitment was to be made at a Government Girls Upper Primary School, therefore, in light of circular dated 15.4.1995 issued by the Deputy Secretary to the Government of Rajasthan, Department of Education (Group-I) appointment was to be given only to a female candidate and as such the candidature of the petitioner was rightly rejected.

Heard counsel for the parties.

The contention of counsel for the petitioner is that under the Rajasthan Panchayati Raj Act, 1994 and the Rules framed thereunder no reservation is prescribed for female candidates, therefore, merely by an executive instructions the vacancy at Government Girls Upper Primary School, Bansi could have not been reserved for female candidates. Learned counsel to substantiate his contention placed reliance upon a judgment of this Court dated January 31, 1995 in the case of Ghewar Ram & Ors. v. State of Rajasthan & Ors. (SBCWP No.3450/94) wherein it is held that if no reservation is prescribed for a specific category under the statutory rules then the same cannot be extended by executive instructions. This Court by the judgment aforesaid also held that under the Rajasthan Panchayati Raj Act, 1994 no provision is there prescribing reservation for female candidates. I am

not at all impressed with the contention so raised as the post of Para Physical Teacher is not part of Rajasthan Panchayati Raj and Zila Parishad Service Rules, 1966 (hereinafter referred to as “the Rules of 1966”). The post aforesaid is an ex. cadre post created under the administrative instructions of the respondents and, therefore, the service conditions for that post can very well be laid down by administrative instructions. In the case of Ghewar Ram & Ors. (supra) the post in question was of Teacher Gr.III i.e. a part of cadre created under the Rules of 1966 and as such this Court held that if under the relevant statute no reservation is prescribed for female candidates then the same could not be applied by administrative instructions. The present one being a case of Para Teacher, an ex. cadre post, the judgment of this Court in the case of Ghewar Ram & Ors. (supra) is having no application. As stated earlier, the post being ex. cadre and created by administrative instructions, its service conditions could very well be regulated by administrative instructions. The respondents, therefore, rightly adhered the administrative instructions issued by the competent authority.

Accordingly, the writ petition fails and the same, therefore, is dismissed.

(GOVIND MATHUR),J.

kkm/ps.